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REPORT
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PROVIDING FOR THE TRANSFER OF CERTAIN LANDS IN THE STATE OF ARIZONA, AND FOR OTHER PURPOSES

OCTOBER 7 (legislative day, SEPTEMBER 25), 1987.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 1366]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 1366) to provide for the transfer of certain lands in the State of Arizona, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 1366 is to permit a local school district in the town of Payson, Arizona to acquire approximately 60 acres of National Forest land which the school district now uses for various school purposes. The conveyance would be made subject to certain restrictions and after appropriate payment to the United States.

BACKGROUND AND NEED

The lands affected by H.R. 1366 are located in the town of Payson, in Gila County, Arizona. They have been used as the site of public school facilities for many years, under special-use permits issued by the Forest Services. The initial permit was issued in 1961 and covered 45 acres; in 1965, this permit was broadened to cover an additional 15 acres. These lands are surrounded by private lands and have lost their National Forest character. The school district has made extensive improvements, including high school and junior high school facilities, involving an investment of more than $4 million, and more facilities are planned for the area. The permit for use of the lands was most recently revised in 1978, and at that

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time, the school district agreed to provisions in the permit which committed the school district to acquiring the land.

According to the Forest Service, the most recent appraisal of the Payson school site indicated that its fair market value, if there were no restrictions on the title, would be $723,000; if use of the property were limited to school purposes, the value would be $425,000. Fees paid by the Payson school district for the use of the this property increased regularly from $2,850 in 1978 to $3,528 in 1980. Because of delays in reappraisals, there were no increases from 1980 to 1986. As a result of a 1986 appraisal, the Forest Service notified the school district in November of that year that the fee for 1987 would be $21,600. At the request of the school district, the Forest Service has agreed to phase this increase over 3 years, so that the 1987 fee actually paid was $10,845 and increases are scheduled to bring the fee to $21,600 in 1989.

The town of Payson and the school district have long indicated a strong interest in acquiring this property for school purposes. They have made it clear, however, that they cannot pay for the property in a single payment. The Committee received testimony that the entire capital budget for the school district for the 1986–87 school year was only $402,300. Still, the town and the school district did indicate a willingness to pay a reasonable sum for the property and accept a reverter provision in any conveyance enduring that the property would only be used for school purposes.

H.R. 1366, as ordered reported, provides that the school district is to have the option of acquiring the lands at anytime during the period for 30 years after enactment. Such acquisition would be on the basis of payment to the United States of the value of the lands for school purposes, as most recently appraised by the Forest Service, but with credit to be given for past payments for use of the lands and with a cap on future increases in the fees required for such use.

LEGISLATIVE HISTORY

H.R. 1366 passed the House by a voice vote on June 29, 1987. A hearing was held by the Subcommittee on Public Lands, National Parks and Forests on July 30, 1987. A Senate companion bill, S. 648, was introduced by Senators DeConcini and McCain on March 3, 1987.

At a business meeting on September 23, 1987, the Senate Committee on Energy and Natural Resources ordered H.R. 1366 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 23, 1987 by unanimous voice vote of a quorum present recommends that the Senate pass H.R. 1366, as described herein.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 30, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1366 an act to provide for the transfer of certain lands in the State of Arizona, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, September 23, 1987.

Under current law, the Payson Unified School District No. 10 rents a parcel of land, totaling approximately 60 acres from the Forest Service. Annual rental payments for use of the land over the next five years are expected to increase from approximately $10,000 in 1987 to about $21,000.

H.R. 1366 would direct the Secretary of Agriculture, upon the request of the school district, to convey the land to the district in exchange for payment of the land's fair market value as of 1986 (estimated to be approximately $450,000) and any administrative costs incurred in executing the transfer. The district's purchase price would be reduced by the amount of all rental payments made by the school district to the federal government after 1960. Rental payments to date total approximately $60,000. The school district would have up to 30 years to request conveyance of the property, and until it is conveyed annual rental payments would be limited to $12,500.

Based on information obtained from the Forest Service, CBO estimates that if this bill is enacted, the federal government would lose rental payments of about $2,000 in 1988 and a total of $30,000–$40,000 over the 1988–1992 period, assuming that the school district would not acquire the property in the next five years. Lost rental payments would probably increase over time.

Savings to the school district would be the same as the costs to the federal government. Enactment of this bill would not otherwise affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1366. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1366, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to H.R. 1366 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, August 19, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 1366, an act, "To provide for the transfer of certain lands in the State of Arizona, and for other purposes."

The Department of Agriculture opposes H.R. 1366 unless amended to require payment of fair market value for the land involved.

H.R. 1366 would authorize and direct the Secretary of Agriculture to convey a 60-acre parcel of National Forest System land to Payson Unified School District No. 10, Payson, Arizona. We support the ultimate purpose of transferring this parcel out of Federal ownership to Payson Unified School District No. 10. It is our desire to work with local communities in meeting community expansion and other social and economic needs. The Federal land involved is part of a special use permit issued to the Payson school district over 15 years ago. The most current revision of the permit accepted by the school district in 1978 included an agreement that it acquire the land through exchange under the Sisk Act (16 U.S.C. 484a). The land is bounded on all four sides by lands in private ownership and has essentially lost its National Forest "character." About 8.35 acres of the 60-acre tract is encumbered by town roads. Under the terms of the special use permit, the school district has placed improvements, including a junior and senior high school, on the property. Further plans include the construction of an auditorium.

The land, without the improvements, has been appraised at approximately $723,000. Because use of the land is limited to school purposes and due to anticipated deed restrictions, the fair market value for purposes of exchange is estimated at $425,000. We feel that the general public is entitled to receive payment of this market value for the transfer of the land out of Federal ownership. The current annual market rental fee is $21,600 and is based on an appraisal completed in November 1986. After the school district appealed the large increase from the previous year's fee, the Forest Service decided to phase the increase in over a 3-year period. The first payment made was $10,845.

As passed by the House of Representatives, the bill would set an arbitrary annual payment for the use at $12,500. It would further apply it and all prior use fees paid to date toward purchase of the National Forest System land. The school district would be allowed to continue to make these fixed payments, with an option to buy

the land for a period of 30 years. The total amount, regardless of when paid, would be fixed at the current fair market value of $425,000. There would be no interest paid.

The compensation provided in H.R. 1366, does not, in a true cost sense, approach the value of the school site as determined by appraisal. In order to determine true current cash value, the income stream (annual rent) of $12,500 must be discounted to the current date. Unimproved land contracts are still commanding 10 percent interest rates which would be appropriate for this income stream discount. The resulting present cash value would equal $129,620. When added to the previous payments of $57,119 the total would be a purchase price of $186,739. This value is $238,261 under the current land value of $425.000. In essence, then, the school district would not be paying this "frozen" fair market value. In addition, this arrangement bears no resemblance to common real estate business practices. Transactions involving payments of a lease with option-to-purchase clauses are typically set considerably higher than the rental-only amount. In addition, interest-free loans are almost unheard of.

Under existing authority, the Forest Service has exchanged over 2,600 acres of land in the Payson area over the last 15 years for the purpose of community expansion. Conversely, this is the third legislative action in as many Congresses granting land to the Payson community. We have made considerable progress using existing authority. In our Southwestern Region, National Forest System lands have been conveyed to 14 school districts in Arizona, 5 in New Mexico, and 1 in Oklahoma. These transactions all involved exchanges for land of equal value, including those involving cash equalization. This process is a fair and equitable means to provide a land base for the schools while assuring that the general public is compensated for the loss of the National Forest System land. Within the last 5 years, over 13 cases have been processed nationally, involving land valued at over $1.5 million. The authority used for such conveyances in the Sisk Act (16 U.S.C. 484a), which allows exchanges with school districts with up to a 100 percent cash equalization. Another authority used for conveyances to communities is the Townsite Act (16 U.S.C. 478a) which applies in the 11 contiguous Western States. It also requires payment of fair market value for the land.

Recent House action on conveyances, such as for Unicoi County, Tennessee (H.R. 1004) and in 1984, for a tract on the Jefferson National Forest, Craig County, Virginia (98 Stat. 2661), are favored over the method proposed in H.R. 1366. These bills both required payment of fair market value for the land. We have interpreted these and similar bills in the past as indicative of the desire of Congress to seek a fair return for the transfer of lands out of Federal ownership.

Existing authorities give appropriate, reasonable options for the Payson School District to either acquire the land, or continue to occupy and use the land under National Forest permit. The values assigned for a current exchange, or continued use under permit should reasonably reflect consideration of the public nature of the use. We also feel strongly that the legislation now being considered will set a precedent resulting in a significant reduction in fees col-

lected from the National Forest lands as other local government entities and school districts become aware of the special consideration granted to the Payson Unified School District No. 10. Such special consideration is not equitable to other school districts who have acquired their land under existing authority. And finally, we feel it is not in the overall public interest to give up additional values beyond the values already committed under current law and policy.

In summary, we believe we have sufficient existing authority to respond to the expansion needs of communities, such as Payson, by means of exchange. This legislation is neither necessary nor equitable. Although we do not support this special legislation, we would not object to H.R. 1366 if amended to provide for payment of fair market value. Without such an amendment the Department opposes enactment of this bill.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program

Sincerely,

PETER C. MYERS,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 1366, as reported.

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